

Oak Ridge Environmental Peace Alliance
Oak Ridge, TN
Page 8 of 25

program.

DOE should be explicit that decisions made at this time do not prejudice or bear on future decisions, particularly with regard to activities which are not "ripe for proposal" at this time.

Finally, in his letter in August of 1995, Assistant Secretary of Energy Victor H. Reis stated that some in DOE held the view that the Y-12 SW-EIS should be delayed until the results of the environmental studies already underway (SSM-PEIS, S-HEU EIS, and S&D-PEIS) were known. The programmatic decisions, Reis argued, would provide a blueprint for future Y-12 activities. In its justifications for the current Y-12 SW-EIS, DOE repeats this argument. Four years after the completion of the blueprint documents, DOE's Y-12 SW-EIS should be expected to fulfill its promise and assess the environmental impacts of all reasonably foreseeable activities arising from the PEISes.

It is the belief of OREPA that the Y-12 SW-EIS as currently construed violates NEPA's prohibition on segmentation. The activities foreseen in the Y-12 SIM, built on the decisions made in the PEISes, are clearly connected and similar, their impacts on the environment will be cumulative, and their impacts must be considered in detail in this SW-EIS.

If DOE is not currently prepared to do this because some of the plans are not "ripe," DOE should withdraw the Y-12 SW-EIS until such time as it can present a comprehensive EIS covering the entire Y-12 Site Integrated Modernization Program.

Further, the Y-12 Site-Wide EIS must be, in fact, Site-Wide, incorporating all activities which take place or are planned to take place in this distinct geographical area; given the nature of the watersheds and drainage, the impacts of all activities on the Y-12 site will be cumulative. For instance, with reference to Building 9201-4, the Y-12 SW-EIS states the building is "heavily contaminated with mercury" and that it is "planned for demolition." (I, 3-68). The rationale for the failure to further consider this significant activity and its environmental impact is apparently that the building is "owned by the EM Program" (I, 3-68). The EM Program refers to the Department of Energy's own Environmental Management program; the planned activity will take place on site; it will have a significant environmental impact; it should be included in the Y-12 SW EIS.

Finally, as noted above, under the alternatives which include significant new construction (HEU facility and Special Materials Complex) enormous physical structures which currently house those operations would become surplus to DOE. The condition of these structures which now compels DOE to consider their replacement (age, levels of contamination, structural integrity) would dictate their decontamination and decommissioning ("D&D") when their missions are moved to new facilities. The Y-12 SW-EIS alludes to this as a possibility, but absent any clear rationale for keeping old, dangerous, contaminated buildings around, the path to D&D must be considered the most likely.

The decontamination and decommissioning, and the eventual demolition of these structures are clearly connected to the actions proposed and the decisions resulting from this EIS—the environmental, economic, and social impacts of those D&D activities must be examined in the Y-12 SW-EIS.

ENVIRONMENTAL IMPACTS

Y-12 & Superfund

The actions proposed in the Y-12 SW-EIS do not take place in a vacuum; the Y-12 site was added to the Environmental Protection Agency's National Priorities List (Superfund) in December, 1989. The Superfund list documents the nation's most pressing environmental contamination challenges. All discussion of future activities and environmental impacts must start from this baseline.

Environmental impacts from historic activities are not limited to the Oak Ridge Reservation; contamination has routinely traveled off-site and continues to do so today. The state of Tennessee has documented contaminant values above drinking water Maximum Concentration Limits in offsite wells near Y-12. (December 9, 1994; *Comments on: Proposed Interim Storage of Enriched Uranium Above the Maximum Historical*

2/25
(cont.)

2/25
(cont.)

6/12

7/05

Comment No. 4 (cont.)

Issue Code: 16

with the SSM ROD and the Stockpile Management and Restructuring Initiative (see Sections S.1.5.2 and 1.1.3). In addition, the Y-12 Modernization Program does not propose replacement or modernization of all major production facilities at Y-12 (see Section 1.1.3). The Modernization Program was developed as a long-term plan for ensuring that Y-12 facilities retain the capability to meet the stockpile needs. The program does not include a massive new nuclear weapons production complex. Additional modernization projects to the HEU Storage Mission and Special Materials Mission proposals would be highly speculative at this time. Besides the fact that long-term plans may be modified based on national and other world events and developments, the budget policies of the new administration questions the likelihood of any comprehensive plan being developed to cover Y-12 process facilities.

The World Court "ruling" that the use of nuclear weapons is a violation of international laws was actually an opinion issued at the request of the World Health Organization. In the opinion, the Court concluded that: (1) There is neither customary nor conventional international law on any comprehensive and universal prohibition of the threat or use of nuclear weapons as such; (2) A threat or use of nuclear weapons should also be compatible with the requirements of international law applicable in armed conflict, particularly those of the principles and rules of international humanitarian law, as well as with specific obligations under treaties and other undertakings which expressly deal with nuclear weapons; (3) In view of the current state of international laws, and the elements of fact at its disposal, the Court could not conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a State would be at stake.

Comment No. 5

Issue Code: 24

The commentor is referred to Section 7.1, Regulatory Framework, of the Y-12 SWEIS for a description of the content of Chapter 7. The